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HOUSE BILL 1961

By McDaniel

AN ACT to create a civil service commission for the sheriff's department in Henderson County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. (a) There is created a Henderson County sheriff's department civil service commission (the commission), which shall consist of three (3) members. One (1) member shall be appointed by the county legislative body of Henderson County. One (1) member shall be selected by a majority vote of the classified employees of the Henderson County sheriff's department (the department). The third member shall be selected by the two (2) members whose method of selection is provided above.

(b) A member shall be at least thirty (30) years of age and shall have been a resident of Henderson County for at least five (5) years. A member shall serve for a term of six (6) years; provided, for the initial selections the members appointed by the county legislative body of Henderson County shall serve a two-year term; the member selected by classified employees of the department shall serve a six-year term; the third member who is selected by the other two (2) members shall serve a four-year term.

(c) Each member shall have equal power and a majority vote of the members is necessary to authorize any commission action or decision. Two (2) members shall constitute a quorum for the transaction of business. No member of the commission shall be employed in any manner by a municipal, county, state or federal government. No member shall hold any elected or appointed position in any governing body and no member shall be a member of the immediate family of any employee of the department. Any vacancy in the commission shall immediately be filled for the remainder of the unexpired term in the same manner as the position was originally filled.

SECTION 2. Each member of the commission shall receive a salary of fifty dollars (\$50.00) per meeting. Each member shall be reimbursed necessary expenses incurred in the discharge of official duties. The county legislative body of Henderson County shall make adequate financial provision including stenographic services for the commission in the performance of its duties. The commission shall hold no more than ten (10) meetings a year.

SECTION 3. The commission shall elect a chairman who shall preside over all meetings, a vice-chairman to serve in the absence of the chairman, and a secretary. The secretary shall keep complete and accurate records of all proceedings held by the commission in a minute book to be provided for this purpose. The secretary shall likewise keep a complete and accurate record of employment lists as provided in Section 5.

SECTION 4. All full-time employees of the department, holding a classified position, as set out hereafter, on the payroll of the department on the effective date of this act shall be covered by the provisions of the act except as noted, and shall not be required to take an examination to continue in their presently classified positions.

SECTION 5. (a) After the effective date of this act, any person seeking employment with the department for any classified position as hereinafter defined, with the exception noted below, shall first be examined and declared qualified by the commission. All other classified positions in the department shall be filled as provided below.

(b) The examination may be written or practical and shall be prepared by the commission on advice of the sheriff, and shall be a comprehensive examination related to the field which it covers. Police officers standard training may be substituted for the examination. The commission shall regularly hold competitive examinations for classified positions. Such examinations shall be offered annually to any applicant and more often as necessary. The commission shall cause a notice to appear not less than thirty (30) days prior to the date set for such examination and the notice shall contain a brief statement of classified positions for which examinations will be held, a brief statement of the subjects upon which applicants will be examined, the time and place of the examination and the duties required by such classified position. The commission shall prepare a list of those persons declared qualified for each classified position, in the order of their excellence as determined by the examination. If a vacancy occurs in a classified position, and upon the request of the sheriff, the commission shall certify to the sheriff the names of the ten (10) persons at the top of the list qualified for such vacancy. The sheriff may select any one (1) of the top ten (10) persons for the classified position and the names of all rejected applicants shall be reinstated at the top of the qualified list for such classified position. Each classified position in the department, except correctional officers and deputy, shall be filled by a promotion by the sheriff from a holder of a classified position. Deputized clerical and office staff shall be appointed by the sheriff.

(c) Every February, a new classified position list shall be established by examination and any applicant shall take such examination before he or she can be eligible for listing as an applicant for a classified position. This subsection applies whether a person was listed on a former classified position or not.

(d)

(1) In accordance with general law, for civil service employment, notices shall be posted for any examination given by any municipal government or any county government or any metropolitan government to establish promotional eligibility for civil service employment.

(2) Such notice shall be posted at least thirty (30) days prior to the examination.

SECTION 6. (a) No person holding any classified position of employment shall be discharged from the service of the department or demoted except for just cause and it is expressly intended that engaging in any political activity or refusing to engage in any political activity shall not be just cause for discharge, suspension or demotion of any employee holding a classified position. Any person discharged or demoted shall have the right to be heard by the commission, in person or by counsel, and the action of the sheriff in discharging or demoting such person shall be subject to the approval or disapproval of the commission. If the commission approves the discharge or demotion, the decision shall be final. If such discharge or demotion is disapproved the employee shall be reinstated to such position with full pay and rights from the day of discharge or demotion. The sheriff shall have the authority to suspend any classified position holder in the department for a period not exceeding one (1) consecutive fifteen-day period without approval of the commission; provided, where the suspension exceeds one (1) consecutive three-day period the classified position holder shall have the right to request an appeal and review by the commission. A written request for hearing must be made within five (5) days from the date of discharge, demotion or suspension.

(b) Any person holding a classified position in the department may be reduced in rank for cause but such action shall likewise be subject to the approval or disapproval of the commission upon appeal duly perfected with the exception of the classified position of chief deputy who may be reduced in rank at the sheriff's discretion no lower than the rank of sergeant. The ranks of sergeant and above shall be selected to occupy the position of chief deputy or first in command under the sheriff.

(c) None of the provisions of this section shall apply to any classified position during the first twelve (12) months of employment. Such period is hereby declared to be a probationary period.

(d) None of the provisions of this section shall prevent the discharge of a holder of a classified position who was employed as the result of the resignation of a holder of a classified position to enter the armed forces, but upon the return of such holder from the armed forces, the holder of the position with the least seniority may be discharged, in which case such holder would revert to the classified position list.

SECTION 7. (a) The following positions within the department are hereby declared to be classified positions within the meaning of this act:

- (1) P.O.S.T. certified deputies;
- (2) K9 handlers;
- (3) Investigators;
- (4) Sergeants; and
- (5) Chief deputy.

(b) All positions not classified herein as classified positions are unclassified positions and such unclassified positions are not covered by the provisions of this act.

SECTION 8. (a) All classified positions within the department shall receive the following benefits after the probationary period has expired:

- (1) Classified positions with the department with one (1) through three (3) years of service shall receive one (1) week paid vacation;
- (2) Classified positions with the department with four (4) through nine (9) years of service shall receive two (2) weeks paid vacation;
- (3) Classified positions with the department with ten (10) through nineteen (19) years of service shall receive three (3) weeks paid vacation; and
- (4) Classified positions with the department with twenty (20) years or greater service shall receive four (4) weeks paid vacation.

(b) The week(s) shall be based upon the type of schedule that the employee normally works. One (1) week is defined as seven (7) consecutive days.

(c) Vacation time may be used only at times approved in advance by an immediate supervisor.

(d) Classified positions within the department shall receive the following holidays after completion of the probationary period:

- (1) New Year's Day;
- (2) Memorial Day;
- (3) Independence Day;
- (4) Labor Day;
- (5) Thanksgiving Day;
- (6) Christmas Day; and
- (7) The employee's birthday;

for a total of seven (7) holidays. Holiday time may be used only at times approved in advance by an immediate supervisor.

SECTION 9. (a) A classified employee of the sheriff's department shall receive full pay during incapacity caused by illness, subject to the guidelines of this section.

(b) A classified position shall become eligible for sick leave if:

- (1) Incapacitated by sickness or injury or for medical, dental, or optical diagnosis and treatment;
- (2) For necessary care and attendance of a member of the employee's immediate family when approved by the department head; or
- (3) Exposed to a contagious disease provided a physician certifies that the employee may jeopardize the health of others.

(c) Each classified position shall accrue sick leave at the rate of one (1) work day per month with the maximum accumulation of one hundred twenty (120) work days.

(d) Sick leave benefits shall commence on the first day of such absence and shall continue for as long as sick leave credit remains.

(e) All absences shall require a doctor's certificate upon a supervisor's request and any absence in excess of three (3) work days shall require a doctor's certificate to return to work.

(f) Accumulated sick leave has no value except for the purpose granted, and in the event of approved retirement or separation, all unused sick leave shall be forfeited.

(g) Accrued sick leave may be used as maternity leave.

(h) Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled off days.

(i) Classified positions claiming sick leave while on annual leave must support their claims by a doctor's certificate.

(j) The department reserves the right to send a classified employee to a company doctor as deemed necessary.

SECTION 10. Classified positions of the department shall be entitled and allowed to receive all hospital, medical, home care, and surgical expenses which were incurred as a result of an injury received by an employee in the performance of departmental duty as a classified position of the department.

SECTION 11. Classified positions of the department shall be entitled to retirement benefits as provided by general law.

SECTION 12. It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this act and of the rules of the commission and to defend all civil suits which may be brought against the commission. The commission shall be represented in such suits by the county attorney except in cases wherein the county attorney may be an interested party. In such events the commission may employ special counsel, and the expense shall be borne by the county on behalf of the commission.

SECTION 13. In any investigation conducted by the commission, the commission shall have the power to subpoena and require the attendance of witnesses and the production by

them of books and papers, pertinent to the investigation and to administer oaths to such witnesses.

SECTION 14. Any person who obstructs or deceives any person in respect to his or her right under this act, makes a false report or certificate, or bribe, or attempts to bribe any employee of the commission or in any other way fraudulently conduct themselves to gain favor for any person or persons, shall be punished by a civil penalty of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00).

SECTION 15. Immediate reports in writing shall be given to the commission by the head of the sheriff's department of all occurrences which affect the status of classified positions or the performance of duties of all persons holding classified positions.

SECTION 16. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Henderson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified to the Secretary of State.

SECTION 17. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 16.